

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
ITT World Communications, Inc.

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision
of a Determination or a Refund of Corporation Tax
under Article 9 of the Tax Law for the Years 1969
through 1973.

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 5th day of February, 1982, he served the within notice of Decision by certified mail upon ITT World Communications, Inc., the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

ITT World Communications, Inc.
320 Park Ave.
New York, NY 10022

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
5th day of February, 1982.

Annex A. Heglund

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION

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State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 5th day of February, 1982, he served the within notice of Decision by certified mail upon Steven S. Goldberg the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Steven S. Goldberg
and Elliot A. Lifset
320 Park Ave.
New York, NY 10022

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
5th day of February, 1982.

Constance G. Hapell

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

February 5, 1982

ITT World Communications, Inc.
320 Park Ave.
New York, NY 10022

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1090 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Steven S. Goldberg
and Elliot A. Lifset
320 Park Ave.
New York, NY 10022
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition
of
ITT WORLD COMMUNICATIONS, INC.
for Redetermination of a Deficiency or for
Refund of Corporation Tax under Article 9 of
the Tax Law for the Years 1969 through 1973.

CORRECTED
DECISION

Petitioner, ITT World Communications, Inc., 320 Park Avenue, New York, New York 10022, filed a petition for redetermination of a deficiency or for refund of corporation tax under Article 9 of the Tax Law for the years 1969 through 1973 (File No. 16231).

A formal hearing was held before William J. Dean, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on September 26, 1977 at 1:15 P.M. Petitioner appeared by Steven S. Goldberg, Esq. and Elliott A. Lifset, Esq. The Audit Division appeared by Peter Crotty, Esq. (Francis Cosgrove, Esq., of counsel).

ISSUE

Whether certain items of petitioner's income were subject to taxation under section 184 of the Tax Law, or were properly excluded as earnings derived from business of an interstate or international character.

FINDINGS OF FACT

1. On October 17, 1975, the Audit Division issued against petitioner, ITT World Communications, Inc. ("Worldcom"), notices of deficiency for corporation taxes due under section 184 of the Tax Law in amounts, with interest, as follows:

<u>PERIOD ENDED</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/72	\$ 8,367.00	\$1,676.75	\$10,043.75
3/31/73	2,456.60	446.24	2,902.84
6/30/73	2,814.95	458.56	3,273.51
9/30/73	2,799.51	403.55	3,203.06
12/31/73	4,436.98	591.47	5,028.45
	<u>\$20,875.04</u>	<u>\$3,576.57</u>	<u>\$24,451.61</u>

At the formal hearing, the Division conceded that deficiencies for earlier periods were barred from assessment by the statute of limitations.

2. Worldcom, a Delaware corporation with its principal offices in New York, is one of four corporations authorized by the Federal Communications Commission to conduct business internationally in the area of record communications. Petitioner has no franchise to do business within the United States; thus, unlike American Telephone and Telegraph Company, for example, petitioner cannot send communications from New York to Chicago, but only from a point within the United States to some other part of the world. Worldcom engages in three major lines of business: messages, the international counterpart to the domestic telegram; telex; and leasing of communication circuits to customers.

3. The Audit Division asserted taxes due upon the gross earnings of petitioner which arose from the following activities:

(a) Interest on loans to petitioner's parent corporation. During the years at issue, petitioner made loans of up to \$20 million to American Cable and Radio Corporation ("AC & R"), its parent. AC & R, a Delaware corporation, is a holding company with no operations of its own. AC & R used the funds to finance several other subsidiaries, communications corporations operating in Latin America, the Caribbean, the Far East and the United Kingdom.

Petitioner filed franchise tax reports for 1972 and 1973, pursuant to section 183 of the Tax Law, in which it allocated to New York the indebtedness from AC & R.

(b) Interest on accounts receivable. Worldcom was paid interest on accounts receivable from other carriers. The receivables were the result of sales, by Worldcom to other carriers, of communications circuits in trans-Atlantic cables running between the United States and Europe. The North American terminals of the cables are located in Tuckerton, New Jersey; Green Hill, Rhode Island; and Clarendville, Canada. The European terminals are located at points in the United Kingdom.

(c) Rental of equipment and facilities. This income represented monthly charges for providing teleprinters to message, telex and lease-line customers. The machines were located in New York offices and integrated into the interstate and international network.

(d) Service fees for furnishing and maintaining stations. These service fees were paid to Worldcom for maintaining and furnishing its radio station facilities at Brentwood, New York, to customers such as the Voice of America, for interstate and international broadcasts.

(e) Money and flower order fees. These fees represented charges for sending money and flower orders. The service can be rendered only in connection with an international transaction. For example, an individual in New York wishing to send flowers to someone in England might communicate that order to the Western Union Company. Western Union, in turn, would select an international carrier such as Worldcom, and Worldcom would complete the transaction.

(f) Code registration fees. These fees represented Worldcom's portion of customer payments to the Central Bureau of Registered Addresses, a non-profit

organization located in New York, for registration of address names or symbols used in international message transmission. The Bureau is administered by the four international record carriers -- RCA, Western Union International, Worldcom and Tropical Radio and Telegram.

(g) Profit from easement sale. Worldcom owns realty on Long Island where it maintains radio antennae and other equipment. An easement was sold to the Long Island Lighting Company.

CONCLUSIONS OF LAW

A. That section 184 of the Tax Law imposes upon every corporation, joint-stock company or association, domestic or foreign, formed for or principally engaged in the conduct of, inter alia, a telegraph or telephone business, an excise tax or license fee "...upon its gross earnings from all sources within this state, excluding earnings derived from business of an interstate character."

B. That interest payments on loans made by Worldcom to AC & R are subject to taxation under section 184. For purposes of taxation, the situs of promissory notes, bonds and like instruments, where the debt is inseparable from the paper which declares it, is the place where they are held. Burke v. Wells, 184 N.Y. 275, aff'd, 208 U.S. 14 (1908); Edison Electric Light Co. v. Campbell, 138 N.Y. 543 (1893). The indebtedness from which the interest income flowed was supervised and managed by petitioner's principal office in New York and had a sufficient business nexus with New York to consider that said indebtedness had its situs in this state.

C. That interest earned on accounts receivable due from other carriers is subject to taxation under section 184. It has been held that, in computing franchise tax, it is proper to include, as part of the capital employed by a foreign corporation doing business in New York, the average amount of bills and

accounts receivable held by it from customers in other states. David Williams
Co. v. Sohmer, 151 A.D. 764 (3d Dept. 1912).

D. That fees received by petitioner for its services, rendered in New York, in transmitting money orders and flower orders overseas, constituted earnings subject to taxation under section 184.

E. That as to charges for the rental of teleprinter equipment, and fees for furnishing and servicing petitioner's radio station facilities at Brentwood, New York, such charges and fees constitute gross earnings from sources within this State; thus, they are subject to taxation under section 184.

F. That with regard to Worldcom's share of customer fees paid to the Central Bureau of Registered Addresses and the profit from the easement sale, these fees and profits constitute gross earnings from sources within this State; thus, they are subject to taxation under section 184.1 of the Tax Law.


G. That the petition of ITT World Communications, Inc. is denied and the notices of deficiency issued October 17, 1975 are sustained.

DATED: Albany, New York

FEB 05 1982

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER